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PATENT
37310-000191/US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANT: Fulps Vincentinus Vermeer CONF. NO.: 1102
SERIAL NO.: 08/909,001 GROUP: 2684
FILED: August 8, 1997 EXAMINER: P. Tran
FOR: A WIRELESS TERMINAL ADAPTED FOR DETACHABLY
CONNECTING WITH A RADIO

**REPLY BRIEF FILED ON BEHALF OF APPELLANT
FILED UNDER PROVISIONS OF 37 C.F.R. § 1.193(b)(1)**

Assistant Commissioner for Patents
Washington, D.C. 20231

April 11, 2003

Dear Sir:

This Appeal Brief is submitted in response to the Examiner's Answer
mailed on February 11, 2003.

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Technology Center 2600

(1) REAL PARTY IN INTEREST:

The real party in interest is Agere Systems Inc.

(2) RELATED APPEALS AND INTERFERENCES:

No related appeals or interferences are known.

(3) STATUS OF THE CLAIMS:

Claims 1-2, 4-7 and 9-11 stand finally rejected under 35 U.S.C. §103 as being unpatentable over Huttunen in view of Kodama and Mallien, II (hereinafter Mallien).

Claims 3 and 8 stand finally rejected under 35 U.S.C. §103 as being unpatentable over Huttunen in view of Kodama, Mallien, II and Stein.

(4) STATUS OF ANY AMENDMENT FILED SUBSEQUENT TO FINAL REJECTION:

A Request for Reconsideration was filed on July 23, 2002, entry of which is respectfully requested. No Amendment has been filed after the final rejection of claims 1-11 in the Office Action dated April 23, 2002.

(5) ISSUES PRESENTED:

Does the Examiner's new interpretation of U.S. Patent No. 5,903,850 to Huttunen et al. ("Huttunen") render claims 1, 2, 4-7, and 9-11 unpatentable under 35 U.S.C. § 103(a) as being obvious over Huttunen in view of U.S. Patent No. 5,805,998 to Kodama ("Kodama") and U.S. Patent No. 4,122,304 to Mallien, II ("Mallien")?

In the Response to Argument section of the Examiner's Answer (page 6), the Examiner asserts that Huttunen discloses "Tx/Rx audio indication means (speaker/microphone)." The Examiner identifies column 5, lines 23-26 of

Huttunen as disclosing the speaker/microphone (Examiner's Answer at pages 6-7). The Examiner fails to identify any portion of Huttunen suggesting that the purpose of a speaker or a microphone is to indicate the transmission or reception of radio signals. This interpretation regarding Huttunen's microphone and speaker is being asserted by the Examiner for the first time in the Examiner's Answer.

The Examiner states that Huttunen fails to disclose a "visual Tx indication mean [sic]." (*Id.*) The Examiner further asserts that it would have been obvious to one of ordinary skill in the art "to modify [Huttunen] and provide a visual indicator in place of an audio indicator to easily notify the user the status of the communication when there is a high volume of surround noise." (*Id.*) The Examiner fails to identify any disclosure in any of Huttunen, Kodama, and Mallien in support of this statement. This alleged motivation to modify Huttunen is being asserted by the Examiner for the first time in the Examiner's Answer.

(6) ARGUMENTS:

A. Group I: Claims 1-4

Independent claim 1 recites a wireless terminal including a first visual indicator, which indicates to a user when a radio is transmitting, and a signal

lead for carrying a first baseband signal from the radio to the first visual indicator for activating the first visual indicator.

Contrary to the Examiner's assertion otherwise (Examiner's Answer at page 6), neither the microphone nor the speaker disclosed in column 5, lines 23-26 of Huttunen can be interpreted as an audio indicator connected to a radio unit by a signal lead that indicates when the radio unit is transmitting. Huttunen's microphone merely acts as a means by which the user's voice signals are input to the radio unit of the mobile phone 1. A microphone provides no indication to the user that the radio unit has actually transmitted his/her voice signals.

Furthermore, the speaker of Huttunen merely allows the user to receive voice signals transmitted from another location. A speaker connected to a mobile phone provides no indication that the mobile phone's radio unit is transmitting signals.

The Examiner identifies no teaching in Huttunen disclosing that either the microphone or a speaker in Huttunen's mobile phone performs the function of indicating when the mobile phone's radio unit is transmitting.

Furthermore, Appellant reasserts the arguments presented in pages 9-10 of the Appeal Brief filed November 25, 2002 that the Examiner has failed to provide a teaching in either Mallien or Kodama of an indicator, visual or

otherwise, which indicates when a radio is transmitting. Thus, one of ordinary skill in the art would not have been motivated to modify Huttunen in view of Mallien and Kodama to include a visual indicator for indicating when a connected radio is transmitting, as required by independent claim 1.

B. Group II: Claims 6-9

Independent claim 6 recites a wireless terminal including a first visual indicator, which indicates to a user when a radio is receiving, and a signal lead for carrying a first baseband signal from the radio to the first visual indicator for activating the first visual indicator.

The Examiner presumably interprets the speaker disclosed in column 5, lines 23-26, of Huttunen as an audio indicator because the speaker outputs voice signals received by the mobile phone 1.

The Examiner alleges that one of ordinary skill in the art would be motivated to “provide a visual indicator in place of an audio indicator to easily notify the user the status of the communication when there is a high volume of surround [sic] noise.” (Examiner’s Answer at page 6) Appellant respectfully submits that there would be no motivation to replace a mobile phone’s speaker with a visual indicator, as suggested by the Examiner, because those skilled in

the art would realize that mobile phone users want to hear what the other party is saying rather than be notified of the status of the communication.

Furthermore, if there is too much noise to hear the voice signals received by the mobile phone, as hypothesized by the Examiner, the main purpose of using the mobile phone is thwarted.

Thus, Appellant respectfully submits that the Examiner is merely applying hindsight reasoning using Appellant's disclosure to modify Huttunen.

Appellant respectfully submits that claim 6 is allowable at least for the reasons set forth above. Accordingly, Appellant submits that claims 7-9 are allowable at least by virtue of their dependency on claim 6.

Also, Appellant reasserts the arguments in pages 14-16 of the Appeal Brief filed November 25, 2002 that the Examiner has failed to provide a teaching in either Mallien or Kodama of a visual indicator that indicates when a radio is receiving. Thus, one of ordinary skill in the art would not have been motivated to modify Huttunen in view of Mallien and Kodama to include a visual indicator for indicating when a connected radio is receiving, as required by independent claim 6.

C. Group III: Claims 5, 10, and 11

Claims 5, 10, and 11 each require both a first visual indicator that indicates to a user of the wireless terminal when the radio is transmitting, and a second visual indicator that indicates when the radio is receiving. For the reasons discussed above, neither the Examiner's new interpretation of Huttunen, nor the Examiner's new statements of motivation to modify Huttunen, constitute a teaching or suggestion of either of these indicators. Accordingly, Appellant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness against claims 5, 10, and 11.

(7) CONCLUSION

For the reasons advanced above, it is respectfully submitted that all the claims in this application are allowable. Thus, favorable reconsideration and reversal of the Examiner's rejection of claims 1-11 under 35 U.S.C. § 103(a) by the Honorable Board of Patent Appeals and Interferences, is respectfully requested.

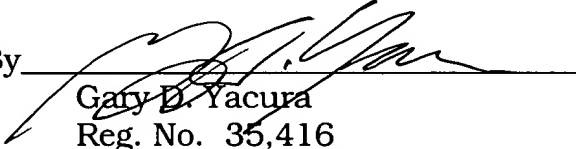
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit

Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16
or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, P.L.C.

By


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(8) APPENDIX OF CLAIMS INVOLVED IN APPEAL

1. A wireless terminal comprising:
an antenna;
a first visual indicator that indicates to a user of said wireless terminal when a radio is transmitting; and
a signal lead for carrying an RF signal from said radio to said antenna and from said antenna to said radio and for carrying a first baseband signal from said radio to said first visual indicator for activating said first visual indicator.
2. The wireless terminal of claim 1 further comprising said radio.
3. The wireless terminal of claim 2 wherein said radio is integral to a PC radio card.
4. The wireless terminal of claim 1 wherein said signal lead is connected to said radio by a detachable connector.
5. The wireless terminal of claim 1 further comprising a second visual indicator that indicates when said radio is receiving and wherein said signal lead also carries a second baseband signal from said radio to said second visual indicator.
6. A wireless terminal comprising:
an antenna;

a first visual indicator that indicates to a user of said wireless terminal when a radio is receiving; and

a signal lead for carrying an RF signal from said radio to said antenna and from said antenna to said radio and for carrying a first baseband signal from said radio to said first visual indicator for activating said first visual indicator.

7. The wireless terminal of claim 6 further comprising said radio.

8. The wireless terminal of claim 7 wherein said radio is integral to a PC radio card.

9. The wireless terminal of claim 6 wherein said signal lead is connected to said radio by a detachable connector.

10. The wireless terminal of claim 6 further comprising a second visual indicator that indicates when said radio is transmitting and wherein said signal lead also carries a second baseband signal from said radio to said second visual indicator.

11. A wireless terminal comprising:

a radio;

an antenna;

a first visual indicator that indicates to a user of said wireless terminal when said radio is operating; and

a cable that is detachably connected to said radio and that is also connected to said antenna for carrying an RF signal and for carrying a baseband signal from said radio to said first visual indicator;

wherein said first visual indicator indicates when said radio is receiving and further comprising a second visual indicator that indicates when said radio is transmitting and wherein said cable also carries a second baseband signal from said radio to said second visual indicator.